

## **TENNESSEE CAMPAIGN FINANCIAL DISCLOSURE LAWS**

### **PART 1 – FINANCIAL DISCLOSURE**

- 2-10-101. Short title – Application – Administration.
- 2-10-102. Definitions.
- 2-10-103. Duties of county election commissions.
- 2-10-104. Affirmation of statements before notary or other persons.
- 2-10-105. Filing of contributions, loan and expenditure statements – Eligible treasurers – Additional reporting requirements.
- 2-10-106. Supplemental annual statements of contributions and expenditures – Funds maintained in segregated campaign accounts.
- 2-10-107. Content of statements – Reporting of in kind contributions.
- 2-10-108. Sworn complaint on statements of candidates – Penalty for false complaint.
- 2-10-109. Duties of attorney general and reporter.
- 2-10-110. Penalties.
- 2-10-111. Inspection of statements – Notice to candidate or political campaign committee.
- 2-10-112. [Repealed.]
- 2-10-113. December reports – Reporting period – Filing deadline.
- 2-10-114. Campaign funds – Allocation of unexpended contributions – Use of funds.
- 2-10-115. [Reserved.]
- 2-10-116. Acceptance of honorarium by public official.
- 2-10-117. Contributions from political action committees within ten days of election.
- 2-10-118. Filing by responsible party with prior assessment record.
- 2-10-119. Transfer of funds or assets from federal to state election campaign committee prohibited.
- 2-10-120. Authority of county election commission.
- 2-10-121. Registration fee for political campaign committees.

### **PART 2 – REGISTRY OF ELECTION FINANCE**

- 2-10-201. Short title.
- 2-10-202. Legislative Intent.
- 2-10-203. Registry of election finance – Creation – Appointments – Qualifications – Administration.
- 2-10-204. Executive director – Employees.
- 2-10-205. Jurisdiction to administer and enforce certain statutes.
- 2-10-206. Registry of election finance- Duties.
- 2-10-207. Registry of election finance – Powers.
- 2-10-208. Applicability of part.
- 2-10-209. Enforcement – Chancery court petitions and orders.
- 2-10-210. Authority to establish or levy penalty or sanction.
- 2-10-211. Electronic filing system.

### **PART 3 – CAMPAIGN CONTRIBUTIONS LIMITS**

- 2-10-301. Short title – Jurisdiction.
- 2-10-302. Contribution limits.
- 2-10-303. Indirect contributions – Political action committees.
- 2-10-304. Loans.
- 2-10-305. Retention or transfer of funds.
- 2-10-306. Aggregate limits – Exemptions.
- 2-10-307. Violations – Return of unlawful contributions.
- 2-10-308. Penalties.
- 2-10-309. Construction with federal law.
- 2-10-310. Fund raising during general assembly session.

## **PART 4 – GUBERNATORIAL INAUGURATION FINANCE DISCLOSURE**

- 2-10-401. Short title.
- 2-10-402. Definitions.
- 2-10-403. Expense fund.
- 2-10-404. Contribution limits – Transfer of campaign funds.
- 2-10-405. Financial disclosure statement.
- 2-10-406. Unused funds.

### **PART 1 FINANCIAL DISCLOSURE**

#### **2-10-101. Short title - Application - Administration - Adoption of more stringent requirements.**

- (a) This part shall be known and may be cited as the "Campaign Financial Disclosure Act of 1980."
- (b) The provisions of this part do not apply to any candidate for public office for which the service is part time and for which the compensation is less than five hundred dollars (\$500) per month; provided, that this exemption shall not be applicable to any such candidate for a public office as a chief administrative officer or to any such candidate whose expenditures exceed one thousand dollars (\$1,000).
- (c) Any charter provisions of municipalities regarding campaign financial disclosures of candidates for public office apply to candidates for public office, except to the extent that such provisions are in conflict with the provisions of this part.
- (d) The registry of election finance shall have the jurisdiction to administer and enforce the provisions of this part concerning campaign financial disclosure.
- (e) Nothing in this part shall be construed as prohibiting the largest municipality located within any county having a population of not less than three hundred thirty-five thousand (335,000) nor more than three hundred thirty-six thousand (336,000), according to the 1990 federal census or any subsequent federal census, from enacting, by ordinance or charter amendment, more stringent financial disclosures of candidates for municipal local public office than those requirements imposed by the provisions of this part. A municipality adopting more stringent requirements pursuant to this chapter shall compensate the county for any additional expenses incurred by the county election commission as a result of adopting more stringent requirements.

#### **2-10-102. Definitions.**

As used in this chapter, unless the context otherwise requires:

- (1) "Affiliated political campaign committees" means political campaign committees established, financed, maintained, or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons;
- (A) All committees established, financed, maintained or controlled by a single corporation and/or its subsidiaries shall be affiliated political campaign committees;
- (B) All committees established, financed, maintained or controlled by a single national or international union and/or its local unions or other subordinate organizations shall be affiliated political campaign committees;
- (C) All committees established, financed, maintained or controlled by an organization of national or international unions and/or all its state and the local central bodies shall be affiliated political campaign committees, but such committees shall not be affiliated with the political campaign committees established, financed, maintained or controlled by any union that is a member of the organization;

(D) All committees established, financed, maintained or controlled by a membership organization, other than political party committees, including trade or professional associations and/or related state and local entities of that organization or group shall be affiliated political campaign committees;

(E) All committees established, financed, maintained or controlled by the same person or group of persons shall be affiliated political campaign committees;

(F) Owners, officers, employees, members or other individuals associated with any corporation, labor organization, membership organization, or any other person or group of persons that has established, financed, maintained or controlled a political campaign committee shall not be considered affiliated with such political campaign committee; and

(2) "Attorney general and reporter" means the attorney general and reporter of Tennessee;

(3) "Candidate" means an individual who has made a formal announcement of candidacy or who is qualified under the law of this state to seek nomination for election or elections to public office, or has received contributions or made expenditures except for incidental expenditures to determine if one shall be a candidate, or has given consent for a campaign committee to receive contributions or make expenditures with a view to bringing about the individual's nomination for election or election to state public office;

(4) "Contribution" means any advance, conveyance, deposit, distribution, transfer of funds, loan, loan guaranty, personal funds of a candidate, payment, gift, pledge or subscription, of money or like thing of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, made for the purpose of influencing a measure or nomination for election or the election of any person for public office or for the purpose of defraying any expenses of an officeholder incurred in connection with the performance of the officeholder's duties, responsibilities, or constituent services. "Contribution" shall not be construed to include the following:

(A) Services, including expenses provided without compensation by a candidate or individuals volunteering a portion or all of their time, on behalf of a candidate or campaign committee;

(B) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless such facilities are owned wholly or in part or controlled by any political party, political committee or candidate;

(C) Nonpartisan activity designed to encourage individuals to register to vote or to vote;

(D) Any written, oral or electronically transmitted communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to public office;

(E) The use of real or personal property and the cost of invitations, food and beverages not exceeding one hundred dollars (\$100), voluntarily provided on an individual's residential premises for candidate related activities; or

(F) For a county executive committee that has annual receipts and expenditures of less than ten thousand dollars (\$10,000), receipts and expenditures, including a reasonable amount for rent, by a state or county executive committee or primary board when performing the duties imposed upon them by law; provided, that such receipts and expenditures are segregated from and maintained in a fund separate and apart from any funds used by the party as a political campaign committee, it being the legislative intent that if no separate fund is maintained, all receipts and expenditures of the committee or board shall be subject to the disclosure provisions of this part;

(5) "Election" means any general, special or primary election or run-off election, held to approve or disapprove a measure or nominate or elect a candidate for public office;

(6) (A) "Expenditure" means a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing a measure or the nomination for election or election of any person to public office;

(B) "Expenditure" also includes the use of campaign funds by an officeholder for the furtherance of the office of the officeholder;

(7) "File" or "filed" means the date actually deposited with or received by the appropriate office or the date of the postmark if postmarked and sent by registered or certified mail of the United States postal service;

(8) "Measure" means any proposal submitted to the people of the entire state, or any political subdivision of the state, for their approval or rejection at an election, including any proposed law, act or part of an act of the general assembly, or revision of or amendment to the constitution;

(9) "Multicandidate political campaign committee" means a political campaign committee to support or oppose two (2) or more candidates for public office or two (2) or more measures;

(10) (A) "Person" means an individual, partnership, committee, association, corporation, labor organization or any other organization or group of persons;

(B) Any limited liability company or limited liability partnership created under title 48 shall be considered a person for the purpose of this subdivisions (10) and subdivision (1);

(11) "Personal funds" means:

(A) Any assets which the candidate had legal right of access to or control over at the time the candidate became a candidate and with respect to which the candidate had either:

(i) Legal and rightful title; or

(ii) An equitable interest;

(B) Salary and other earned income from bona fide employment;

(C) Dividends and proceeds from the sale of the candidate's stocks or other investments;

(D) Bequests to the candidate; income from trusts established before candidacy;

(E) Income from trusts established by bequest after candidacy of which the candidate is the beneficiary;

(F) Gifts of a personal nature which had been customarily received prior to candidacy; and

(G) That portion of assets jointly owned with the candidate's spouse which is the candidate's share under the instruments of conveyance or ownership. If no specific share is indicated by such instrument, the value of one-half of the property used shall be considered as personal funds.

(12) "Political campaign committee" means:

(A) A combination of two (2) or more individuals, including any political party governing body, whether state or local, making expenditures, to support or oppose any candidate for public office or measure, but does not include a voter registration program;

(B) Any corporation or any other organization making expenditures, except as provided in subdivision (4), to support or oppose a measure; or

(C) Any committee, club, association or other group of persons which receives contributions or makes expenditures to support or oppose any candidate for public office or measure during a calendar quarter in an aggregate amount exceeding two hundred fifty dollars (\$250);

(13) "Public office" means any state public office or local public office filled by the voters;

(A) "Local public office" means any state, county, municipal, school or other district or precinct office or position, including judges and chancellors, that is filled by the voters, with the exception that "local public office" does not include any state public office as defined in subdivision (11)(B); and

(B) "State public office" means the offices of governor, member of the general assembly, delegate to a Tennessee constitutional convention, district attorney general, district public defender, judge of the court of criminal appeals, judge of the court of appeals and supreme court judge;

(14) "Secretary of state" means the secretary of state or the secretary of state's designee;

#### **2-10-103. Duties of county election commissions.**

(a) It is the duty of each county election commission to:

(1) Accept and file any information filed pursuant to the requirements of this part and information voluntarily supplied that exceeds the requirements of this part;

(2) Make statements and other information filed with it available for public inspection and copying during regular office hours at reasonable expense;

(3) Preserve such statements and other information for a period of five (5) years from date of receipt; and

(4) Notify all candidates for local public office in a local election of the requirements for filing any statement required by this part seven (7) days before any deadline provided for herein.

(b) It is the duty of the state election commission to furnish the name and address of any candidate for statewide public office and the language of any measure submitted to the people of the entire state to the secretary of state and the registry of election finance.

#### **2-10-104. Affirmation of statements before notary or other persons.**

All statements required by this part shall be sworn to or affirmed before a notary public or some other person authorized by law to administer oaths as being true and correct by the person filing such statements.

#### **2-10-105. Filing of contribution, loan and expenditure statements - Eligible treasurers**

##### **- Additional reporting requirements.**

(a) Each candidate for state public office or political campaign committee in a state election shall file with the registry of election finance a statement of all contributions received and all expenditures made by or on behalf of such candidate or such committee. The statement of each candidate for state public office shall include the date of the receipt of each contribution and the statement of a political campaign committee in a state election shall include the date of each expenditure which is a contribution to a candidate. Each candidate for the office of member of the general assembly and each political campaign committee for such candidate shall file a copy of such statement with the county election commission in the county of which the candidate is a resident.

(b) Each candidate for local public office or political campaign committee for a local election shall file with each county election commission of the county where the election is held, a statement of all contributions received and all expenditures made by or on behalf of such candidate or such committee. The statement of each candidate for local public office shall include the date of the receipt of each contribution and the statement of a political campaign committee for a local election shall include the date of each expenditure which is a contribution to a candidate.

(c) The statements required by subsections (a) and (b) of each candidate, each single candidate political campaign committee or single measure political campaign committee shall be filed in the following manner:

(1) Statements for any primary election or referendum, from and including the day that the first contribution was received or the first expenditure made, whichever was earlier, through the tenth day before any such election or referendum shall be filed not later than seven (7) days before the election. The reporting period of any statement filed subsequent to a report filed under subdivision (c)(5) shall commence the day after the period covered by such prior filing. Each independent candidate for a state or local public office, which office has a primary election, shall file all primary reports required by this subsection, even though such independent candidate is not included on the ballot in such primary election;

(2) Statements for any special or general election or referendum:

(A) From and including the day that the first contribution was received or the first expenditure made whichever was earlier; or

(B) From the last day included in any prior report whichever is later through the tenth day before any such election or referendum shall be filed not later than seven (7) days before the election;

(3) Statements for any runoff election, from the last day included in any prior report through the tenth day before any such election shall be filed, not later than seven (7) days before the election;

(4) Statements from the last day of the prior report through the forty-fifth day after the primary, general, special or runoff election or referendum shall be filed not later than forty-eight (48) days after the election. When no subsequent report is required by this section or § 2-10-106 because such statement has a zero (\$0) balance of contributions and expenditures, such statement shall be the final statement; and

(5) Any candidate or political campaign committee filing a statement pursuant to subsection (e), more than one (1) year before the election in which the candidate or committee expects to be involved, shall file reports with the registry of election finance or the county election commission, whichever is required by subsections (a) and (b), by January 31 immediately succeeding the filing, and annually thereafter through the year of the election. If January 31 falls on a Saturday, a Sunday, or a legal holiday, the provisions of § 1-3-102 shall apply. The ending date of a reporting period for such a filing is December 31 of the year preceding the filing. No such annual report need be made if the reporting date is within sixty (60) days of a report otherwise required by this part.

(d) Each multicandidate political campaign committee shall file reports according to § 2-10-107 quarterly, within ten (10) days following the first day of January, April, July and October respectively. Each report shall include transactions occurring since the preceding report.

(e) Each candidate and each political campaign committee shall certify the name and address of the candidate's or committee's political treasurer to the registry of election finance and/or the county election commission, where appropriate, before the candidate or committee may receive a contribution or make an expenditure in a state or local election. A state public officeholder shall also certify the name and address of such officeholder's political treasurer to the registry of election finance before the officeholder or the officeholder's political committee may accept a contribution to defray the expenses incurred in connection with the performance of the officeholder's duties or responsibilities, and a local officeholder shall so certify the name and address of such officeholder's treasurer to the appropriate county election commission. A candidate may appoint such candidate as the political treasurer. A candidate or political campaign committee shall notify the registry of election finance or county election commission of any changes in the office of its political treasurer. Any such statements filed pursuant to this part shall be cosigned by the candidate, if such candidate appoints a political treasurer other than the candidate.

(f) All records used by the candidate or political campaign committee to complete a statement required by this part shall be retained by the candidate or political campaign committee for at least one (1) year after the date of the election to which the records refer.

(g) Separate reporting shall be required for both primary elections and general elections. Cumulative reporting for both primary and general elections for the same office in the same year is expressly prohibited. An appointment of a political treasurer pursuant to subsection (e) may be cumulative, and one (1) such appointment shall be sufficient for both a primary and general election for the same office in the same year. A successful primary candidate shall not be required to certify a political treasurer for the general election if the candidate had previously certified such political treasurer prior to the primary election.

(h) During the period beginning at twelve o'clock midnight (12:00) of the tenth day prior to a primary, general, runoff or special election or a referendum and extending through twelve o'clock midnight (12:00) of such election or referendum day, each candidate or political campaign committee shall by telegram, facsimile machine, hand delivery or overnight mail delivery file a report with the registry of election finance or the county election commission, whichever is required by subsections (a) and (b) of:

(1) (A) The full name and address of each person from whom the candidate or committee has received and accepted a contribution, loan or transfer of funds during such period and the date of the receipt of each contribution in excess of the following amounts: a committee participating in the election of a candidate for any state public office, five thousand dollars (\$5,000); a committee participating in the election of a candidate for any local public office, two thousand five hundred dollars (\$2,500). If the committee is participating in the election of candidates for offices with different reporting amounts, the amount shall be the lowest for any candidate in whose election the committee is participating or in which any committee is participating to which it makes or from which it receives a transfer of funds; and

(B) Such report shall include the amount and date of each such contribution or loan reported, and a brief description and valuation of each in-kind contribution. If a loan is reported, the report shall contain the name and address of the lender, of the recipient of the proceeds of the loan, and of any person who makes any type of security agreement binding such person or such person's property, directly or indirectly, for the repayment of all or any part of the loan.

(2) Each report required by this subsection shall be filed within seventy-two (72) hours after the time the contribution or loan is received. If such time falls other than during regular working hours, the report shall be filed after the opening of the office of the registry of election finance or the county election commission, whichever is required by subsections (a) and (b) on the next working day after the time at which the report is otherwise due.

(3) The registry shall develop appropriate forms for the report required by this subsection and make such forms available to the candidates and the county election commissions.

(i) Any state or local political party or caucus of such political party established by members of either house of the general assembly that controls or operates one (1) or more political campaign committees shall report all receipts and disbursements by the party in the same manner and at the same time that it reports contributions and expenditures by the party's political campaign committee.

(j) Reports filed under this section shall not be cumulative. Each report shall reflect the total for its own reporting period.

**2-10-106. Supplemental annual statements of contributions and expenditures - Funds maintained in segregated campaign accounts.**

(a) If the final statement of a candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry of election finance or the county election commission, whichever is required by § 2-10-105(a) and (b), a supplemental annual statement of contributions and expenditures. Beginning after filing the post-election report required by § 2-10-105(c)(4), subsequent supplemental statements shall be filed on an annual basis by candidates until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. A candidate may close out a campaign account by transferring any remaining funds to any campaign fund subject to the requirements of this part and commence annual filing as provided by this part.

(b) Funds maintained in a separate segregated campaign account are not deemed to be the personal property of any candidate or other individual. Such funds are not subject to garnishment or any type of execution to satisfy the debts or obligations of any individual which are not campaign debts.

**2-10-107. Content of statements - Reporting of in kind contributions.**

(a) A statement filed under § 2-10-105 or § 2-10-106 shall consist of either:

(1) A statement that neither the contributions received nor the expenditures made during the period for which the statement is submitted exceeded one thousand dollars (\$1,000). Any statement filed pursuant to § 2-10-106 shall indicate whether an unexpended balance of contributions, continuing debts and obligations or an expenditure deficit exists; or

(2) A statement setting forth:

(A) Under contributions, a list of all the contributions received, as follows:

(i) The statement shall list the full name and complete address of each person who contributed a total amount of more than one hundred dollars (\$100) during the period for which the statement is submitted, and the amount contributed by that person. The statement of each candidate shall include the date of the receipt of each contribution and the statement of a political campaign committee shall include the date of each expenditure which is a contribution to a candidate; and

(ii) The statement shall list as a single item the total amount of contributions of one hundred dollars (\$100) or less; and

(B) Under expenditures, a list of all expenditures made as follows:

(i) The statement shall list the full name and address of each person to whom a total amount of more than one hundred dollars (\$100) was paid during the period for which the statement is submitted, the total amount paid to that person, and the purpose thereof; and

(ii) The statement shall list the total amount of expenditures of one hundred dollars (\$100) or less each, by category, without showing the exact amount of or vouching for each such expenditure.

(b) When any candidate or political campaign committee desires to close out a campaign account, it may file a statement to such effect at any time; provided, that the statement shall on its face show no unexpended balance, continuing debts or obligations or deficit.

(c) (1) When filing a statement under § 2-10-105 or § 2-10-106 a contribution, as defined in § 2-10-102(3), for which no monetary consideration is paid or promised, hereinafter referred to as an "in kind contribution," shall be listed separately in the disclosure statement and excluded from the lists of contributions and expenditures. The "in kind contribution" list shall include:

(A) In kind contributions of one hundred dollars (\$100) or less may be listed as a single item; and

(B) In-kind contributions of more than one hundred dollars (\$100) during the period for which the statement is submitted, and for each such contribution, the name and address of each person who contributed it. The statement of each candidate shall include the date of the receipt of each in-kind contribution and the statement of a political campaign committee shall include the date of each expenditure which is an in-kind contribution to a candidate.

(2) Within ninety (90) days of July 1, 1991, by rule promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the registry of election finance shall enumerate a nonexclusive listing of examples of the various categories of contributions which constitute "in kind contributions" requiring disclosure. Upon promulgating such rule, the registry shall provide a copy of such rule to each member of the general assembly.



(d) An in kind contribution is deemed to be made and shall be reportable in the period when such contribution is made or performed and not when the cost is billed or paid. The actual cost of the in kind contribution, if known, shall be reported in the period such contribution is made or performed. If the actual cost of the in kind contribution is not known, an estimate of the cost shall be reported in the period such contribution is made or performed, and the report shall indicate that the amount reported is estimated. If the actual cost, as indicated on the bill, is different from the amount reported, such amount shall be amended or adjusted on a later report covering the period in which payment is made.

(e) A statement filed under § 2-10-105 or § 2-10-106 shall also list any unexpended balance, any deficit and any continuing financial obligations of the candidate, campaign or committee.

(f) Payments to a person as reimbursement for expenditures made by the person on behalf of the candidate or committee shall be disclosed as payments to the person who provided the item or service to the candidate or committee.

#### **2-10-108. Sworn complaint on statements of candidates - Penalty for false complaint.**

(a) A registered voter of Tennessee may file a sworn complaint alleging that a statement filed regarding an election for which that voter was qualified to vote does not conform to law or to the truth or that a person has failed to file a statement required by law.

(b) All sworn complaints on a statement of a candidate for state public office or a political campaign committee for such candidate must be filed in the office of the registry of election finance.

(c) All sworn complaints on a statement of a candidate for local public office or a political campaign committee for such candidate must be filed in the office of the district attorney general who represents the judicial district in which the voter resides.

(d) Any person who knowingly and willfully files a sworn complaint which is false or for the purpose of harassment is subject to the civil penalties enacted into law by Acts 1989, ch. 585, and is liable for reasonable attorneys' fees incurred by the candidate who was the subject of such complaint.

#### **2-10-109. Duties of attorney general and reporter.**

(a) It is the duty of the attorney general and reporter to:

(1) Advise county election commissions, primary boards and administrator of elections of their duties and responsibilities required by this part;

(2) Provide opinions upon the requirements of this part to the members of the general assembly, district attorneys general, the state and county election commissions, and such other officials who are charged with the administration of this law; and

(3) Represent the registry of election finance in any action or lawsuit in any court of this state.

(b) It is the duty of each district attorney general to:

(1) Investigate any sworn complaint filed in accordance with § 2-10-108(c); and

(2) Seek injunctions from the chancery courts of this state to enforce the provisions of this part against any campaign committee or candidate about whom a sworn complaint has been filed, if such action is justified.

#### **2-10-110. Penalties.**

(a) The registry of election finance or a county administrator of elections may impose a civil penalty for a violation of this part as provided in this section. The administrator may only assess penalties for violations for Class 1 offenses as established in this section.

(1) "Class 1 offense" means the late filing of any report or statement required by this part. A Class 1 offense shall be punishable by a civil penalty of not more than twenty-five dollars (\$25.00) a day up to a maximum of seven hundred fifty dollars (\$750).

(A) For local public offices, the administrator shall have personally served upon, or send by return receipt requested mail, an assessment letter to any candidate or committee upon the administrator's discovery that a due report has not been filed. A civil penalty of twenty-five dollars (\$25.00) a day shall begin to accrue five (5) days after personal service or receipt of the letter and will continue to accrue until the report is filed or for thirty (30) days, whichever occurs first.

(B) For local public offices, the administrator may accept only a check, bank draft or other written instrument as payment for any penalty imposed. The administrator shall forward such payment to the registry of election finance within three (3) business days of its receipt. If any accrued civil penalty is not paid within thirty (30) days after service of process or receipt of notice by registered or certified mail of an assessment, the administrator shall not accept any tendered payment and shall send the case to the registry of election finance for disposition. The administrator shall accept any late report offered for filing by the candidate or committee at any time, noting thereon the date of its filing. The administrator shall notify the registry of election finance that the late report has been filed and on what date it was filed.

(C) The administrator shall notify the registry of election finance of any Class 2 violation of which the administrator has knowledge.

(D) To request a waiver, reduction or to in any way contest a penalty imposed by an administrator, a candidate for a local public office shall file a petition with the registry of election finance.

(E) For state public offices, the registry of election finance shall have personally served upon, or send by return receipt requested mail, an assessment letter to any candidate or committee upon the registry or its appropriate staff discovering that a due report has not been filed. A civil penalty of twenty-five dollars (\$25.00) a day shall begin to accrue five (5) days after personal service or receipt of the letter and will continue to accrue until the report is filed or for thirty (30) days, whichever occurs first.

(F) For any Class 2 offense, the registry of election finance through its appropriate staff shall send an assessment letter to a candidate or committee in a form sufficient to advise the candidate or committee of the factual basis of the violation, the maximum penalty and the date a response to the letter must be filed. If a disclosure report is returned to a candidate or committee for correction, a copy of the original shall be retained on file until the corrected report is returned to the registry of election finance. If the original filing was in compliance with the intent of the law and minor errors are corrected within the date set for a response, no penalty shall be assessed.

(G) To request a waiver, reduction or to in any way contest a penalty imposed by the staff of the registry of election finance, a candidate for a state public office shall file a petition with the registry of election finance. Such petition may be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(2) "Class 2 offense" means failing to file a report required by this part within thirty-five (35) days after service of process or receipt of notice by registered or certified mail of an assessment or any other violation of the requirements of this part. A Class 2 offense is punishable by a maximum penalty of not more than ten thousand dollars (\$10,000) or fifteen percent (15%) of the amount in controversy, if fifteen percent (15%) of the amount in controversy is greater than ten thousand dollars (\$10,000).

(A) For state and local public offices, the registry of election finance may impose a civil penalty for any Class 2 offense.

(B) To request a waiver, reduction or to in any way contest a penalty imposed by the registry of election finance, a candidate for a local public office shall file a petition with the registry of election finance. Such petition may be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(C) "Amount in controversy" means, as appropriate to the case, the greater of the total expenditures or total contributions either of which or both of which are shown on a late report subsequently filed, or the amount of an expenditure or contribution which was not reported or was incorrectly reported.

(b) Penalties imposed under this part shall be deposited into the state general fund.

(c) (1) The registry of election finance shall maintain a register of all civil penalties imposed under this part and remaining unpaid.

(2) If a civil penalty lawfully assessed and any lawfully assessed cost attendant thereto are not paid within thirty (30) days after the assessment becomes final, the candidate owing such civil penalty shall be ineligible to qualify for election to any state or local public office until such penalty and costs are paid.

(3) If a civil penalty authorized by this section is imposed, it shall be considered as a personal judgment against the candidate.

(d) A candidate for state or local public office who fails to file any statement or report required by this part shall be ineligible to qualify for election to any state or local public office until such statement or report is filed with the registry and/or the appropriate county election commission.

(e) It is the intent of the general assembly that the sanctions provided in this section shall be the civil penalties enacted into law by Acts 1989, ch. 585.

(f) For any civil penalty levied by the registry against a multicandidate political campaign committee under this section or § 2-10-308 the treasurer of such committee is personally liable for such penalty.

#### **2-10-111. Inspection of statements - Notice to candidate or political campaign committee.**

(a) (1) (A) Whenever statements or other information is inspected as provided in § 2-10-206(3) or § 2-10-103(a)(2), the registry of election finance or county election commission, whichever is applicable, shall make a record of such inspection and provide notice, within three (3) business days from the date of the inspection, to the candidate or single candidate political campaign committee whose files, statements or records have been inspected or copied:

(B) That such inspection has taken place;

(C) The name, address, business telephone number, home telephone number, and the driver license number or other appropriate identification of the person making such inspection;

(D) For whom the inspection was made; and

(E) The date of such inspection.

(2) Any person making an inspection of such files, statements or records shall present evidence of identification and state the name of the person or organization the person represents, if any.

(b) Such record shall be available for public inspection during the normal business hours of the registry of election finance or county election commission.

#### **2-10-112. [Repealed.]**

#### **2-10-113. December reports - Reporting period - Filing deadline.**

Notwithstanding any other provision of law, rule or regulation to the contrary, if any report is required to be filed in December under the provisions of this part, the date of the reporting period for such report shall end on December 31, and the report shall be filed not later than January 31 of the following year. If January 31 falls on a Saturday, a Sunday, or a legal holiday, the provisions of § 1-3-102 shall apply.

**2-10-114. Campaign funds - Allocation of unexpended contributions - Use of funds.**

(a) Any candidate for public office in this state with an unexpended balance of contributions after the election shall elect one (1) or a combination of the following for allocation of such funds within sixty (60) days of such election:

- (1) The funds may be retained or transferred to any campaign fund pursuant to Tennessee reporting requirements;
- (2) The funds may be returned to any or all of the candidate's contributors in accordance with a formula or plan specified in the candidate's disclosure of the allocation;
- (3) The funds may be distributed to the executive committee of the candidate's political party;
- (4) The funds may be deposited in the volunteer public education trust fund established under title 49, chapter 3, part 4;
- (5) The funds may be distributed to any organization described in 26 U.S.C. § 170(c);
- (6) The funds may be distributed to an organization which has received a determination of exemption from the United States internal revenue service pursuant to subsection (3) or (4) of 26 U.S.C. § 501(c), if such organization is currently operating under such exemption; and
- (7) The funds may be used to defray any ordinary and necessary expenses incurred in connection with the office of the officeholder. Such expenses may include, but are not limited to, the cost of advertisements, membership fees, and donations to community causes.

(b) Except as provided in subsection (a), no candidate for public office shall use any campaign funds either prior to, during or after an election for such candidate's own personal financial benefit or any other nonpolitical purpose as defined by federal internal revenue code. A violation of this subsection is a Class 2 offense as defined in § 2-10-110(a)(2).

(c) If the allocation made in accordance with subsection (a) is made after the post-election report required by § 2-10-105(c)(4), then a report of the allocation shall be filed within twelve (12) calendar days at the same office and with the same information as required in § 2-10-107 for expenditures.

(d) In addition to the manner in which unexpended balances in the campaign account of a candidate may be allocated under the provisions of subsection (a), if an incumbent dies while in office and has an unexpended balance in a campaign account, and if such incumbent's surviving spouse or child is appointed to fill the unexpired term of the deceased incumbent or is elected to the office previously held by the deceased, then the balance remaining in the campaign account of such deceased incumbent shall be transferred to the campaign account of the surviving spouse or child of the deceased incumbent for use by such surviving spouse or child as a candidate for election to public office in accordance with the provisions of this part.

(e) In the event a candidate for public office dies with an unexpended balance of contributions in such candidate's campaign account and the provisions of subsection (d) are not applicable, then the following individuals in the descending order hereafter established are authorized to allocate such unexpended balance to those persons, political parties, or charitable organizations listed in subdivisions (a)(2)-(5):

- (1) The deceased candidate if such candidate provided for allocation of an unexpended balance through such candidate's will;
- (2) The deceased candidate's treasurer unless the candidate was the treasurer;

(3) The surviving spouse of the deceased candidate if the candidate was the treasurer; and

(4) The next of kin of the deceased candidate if the provisions of subdivisions (e)(2) and (3) do not apply.

If a decision is not made by any such individual, or individuals where subdivision (e)(4) applies, within one (1) year of the date of death of the deceased candidate, then the unexpended balance shall be distributed by the registry of election finance to the volunteer public education trust fund established under title 49, chapter 3, part 4.

(f) Notwithstanding the provisions of subsection (a), if such member raises funds for such local public office during the time the general assembly is in session in accordance with § 2-10-310(a), then any unexpended balance of contributions in the campaign account established by such member of the general assembly for such member's candidacy for local public office, shall not be used for or distributed to a campaign fund:

(1) For the benefit of any election for any candidate for the general assembly;

(2) For the benefit of any statewide election, or any state, national or other political party;

(3) For the benefit of any state, national or other political party caucus; or

(4) For the benefit of any state, national or other political party caucus member.

#### **2-10-115. [Reserved.]**

#### **2-10-116. Acceptance of honorarium by public official.**

(a) The acceptance of an honorarium by a public official in such person's capacity as a public official is prohibited. "Honorarium" means a payment of money or any thing of value for an appearance, speech or article, but does not include actual and necessary travel expenses, meals and lodging associated with such appearance, speech or article.

(b) Acceptance of an honorarium for an appearance, speech or article by a public official in such person's capacity as a private business person, professional or tradesperson is not prohibited.

#### **2-10-117. Contributions from political action committees within ten days of election.**

No multicandidate political campaign committee other than a committee controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly shall make a contribution to any candidate in a period from ten (10) days before an election until the day of the election.

#### **2-10-118. Filing by responsible party with prior assessment record.**

(a) It is unlawful for a responsible party of a multicandidate political campaign committee who has a prior assessment record to intentionally fail to file a required report under this chapter, for which the party is responsible for filing, within thirty-five (35) days after service of process or receipt of notice from the registry by registered or certified mail. For the purposes of this section, "responsible party" is the treasurer of the committee appointed pursuant to § 2-10-105(e), or if no treasurer has been appointed, any person who organizes or directs the fundraising activities of a multicandidate political campaign committee. A responsible party shall be considered to have a prior assessment record for purposes of this section if during the person's service as a responsible party to one (1) or more multicandidate political campaign committees, the committee or committees violate on two (2) or more occasions § 2-10-110 or § 2-10-308 and such violations result in the committee or committees being assessed a penalty by the registry.

(b) A violation of this section is a Class E felony.

#### **2-10-119. Transfer of funds or assets from federal to state election campaign committee prohibited.**

Transfers of funds or assets from a candidate's campaign committee or account for a federal election to a political campaign committee of or for such candidate for public office in this state is prohibited.

**2-10-120. Authority of county election commission.**

The county election commission has the authority to forward information regarding violation of disclosure laws by candidates for local public office to the district attorney general for investigation without the necessity of a sworn complaint from a registered voter as provided by § 2-10-108.

**2-10-121. Registration fee for political campaign committees.**

No later than sixty (60) days after July 1, 2003, each multicandidate political campaign committee registered with the registry of election finance shall pay a registration fee of one hundred fifty dollars (\$150.00). For any multicandidate political campaign committee registering a new committee during the year 2003 after July 1, 2003, the committee shall pay the registration fee at the time that it certifies its political treasurer. No later than January 31, 2004, each multicandidate political campaign committee registered with the registry of election finance shall pay a registration fee of one hundred fifty dollars (\$150.00). No later than January 31 for each year thereafter, each multicandidate political campaign committee registered with the registry of election finance shall pay a registration fee of seventy-five dollars (\$75.00). For any multicandidate political campaign committee registering a new committee during any year, the committee shall pay the appropriate registration fee as designated above at the time that it certifies its political treasurer. All fees collected by the registry of election finance under the provisions of this section shall be retained by the registry and used for expenses related to maintaining an electronic filing system. This section shall not apply to any statewide political party as defined in § 2-1-104(29) or subsidiaries thereof.

**PART 2  
REGISTRY OF ELECTION FINANCE**

**2-10-201. Short title.**

This part shall be known and may be cited as the "Registry of Election Finance Act of 1989."

**2-10-202. Legislative intent.**

It is the intent of the general assembly to provide adequate financial disclosure by public officials, candidates for public office, and lobbyists. Furthermore, it is the intent of the general assembly to establish a registry of election finance to ensure enforcement of these statutes.

**2-10-203. Registry of election finance - Creation - Appointments - Qualifications - Administration.**

(a) There is hereby created as an independent entity of state government a Tennessee registry of election finance. The registry shall be composed of seven (7) members appointed as provided herein. Appointments shall be made to reflect the broadest possible representation of Tennessee citizens. Of the seven (7) members appointed, at least one (1) shall be a female and one (1) shall be black. However, a black female shall not satisfy the requirement of one (1) female and one (1) black. Each member shall have been a legal resident of this state for five (5) years immediately preceding selection. Members shall be at least thirty (30) years of age, registered voters in Tennessee, not announced candidates for public office, not members of a political party's state executive committee, shall not have been convicted of an election offense, and shall be persons of high ethical standards who have an active interest in promoting fair elections. Gubernatorial appointees shall be subject to confirmation by joint resolution of the general assembly. Such appointees shall have full power to serve until any vote of nonconfirmation.

(b) (1) For administrative purposes, the registry shall be attached to the department of state for all administrative matters relating to receipts, disbursements, expense accounts, budget, audit, and other related items. The autonomy of the registry and its authority are not affected hereby and the secretary of state shall have no administrative or supervisory control over the registry.

(2) No person performing staff duties for the registry of election finance, including the executive director, shall, during the period of such employment:

(A) Be allowed to hold or qualify for elective office to any state or local public office as defined by § 2-10-102;

(B) Be an officer of any political party or political committee;

(C) Permit such person's name to be used, or make contributions, in support of or in opposition to any candidate or propositions;

(D) Participate in any way in any election campaign; or

(E) Lobby, or employ or assist a lobbyist; provided, that this provision on lobbying shall not prohibit the executive director from the performance of the executive director's duties.

(c) Members of the registry shall be selected for staggered five-year terms as follows:

(1) The governor shall appoint three (3) members. One (1) member shall be appointed from a list of three (3) nominees submitted by the state executive committee of the majority party. One (1) member shall be appointed from a list of three (3) nominees submitted by the state executive committee of the minority party. One (1) other member shall be appointed by the governor. Before making this appointment, the governor shall solicit nominations from at least one (1) organization which has demonstrated a nonpartisan interest in fair elections and informed voting. The governor's solicitations and the replies shall be public records. The governor shall give due consideration to such nominations. The gubernatorial appointees shall serve initial terms of one (1) year;

(2) The senate shall appoint two (2) members with one (1) member to be chosen by the members of the senate democratic caucus and one (1) member to be chosen by the members of the senate republican caucus. The senate appointees shall serve initial terms of three (3) years; and

(3) The house of representatives shall appoint two (2) members with one (1) member to be chosen by the members of the house democratic caucus and one (1) member to be chosen by the members of the house republican caucus. The house appointees shall serve initial terms of five (5) years.

(d) Vacancies shall be filled in the same manner as the vacating member's office was originally filled.

(e) The registry shall elect a chair from among its appointed membership. The chair shall serve in that capacity for one (1) year and shall be eligible for reelection. The chair shall preside at all meetings and shall have all the powers and privileges of the other members.

(f) The registry shall fix the place and time of its regular meetings by order duly recorded in its minutes. No action shall be taken without a quorum present. Special meetings shall be called by the chair on the chair's initiative or on the written request of four (4) members. Members shall receive seven (7) days' written notice of a special meeting, and the notice shall specify the purpose, time and place of the meeting, and no other matters may be considered, without a specific waiver by all the members.

(g) The members of the registry shall receive no compensation; provided, that each member of the registry shall be eligible for reimbursement for expenses and mileage in accordance with the regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(h) No member of the registry of election finance shall, during such membership:

(1) Be allowed to hold or qualify for elective office to any state or local public office, as defined by § 2-10-102;

(2) Be an officer of any political party or political committee;

(3) Permit such member's name to be used, or make contributions, in support of or in opposition to any candidate or propositions;

(4) Participate in any way in any election campaign; or

(5) Lobby, or employ or assist a lobbyist.

(i) The prohibitions of subsection (h) shall not prohibit any incumbent member of the registry of election finance from seeking votes for reelection to the registry.

(j) (1) The provisions of subsection (h) shall be applicable for one (1) year subsequent to the removal, vacancy or termination of the term of office of a member of the registry of election finance.

(2) If a member of the registry of election finance is also serving as an appointed public official and is subsequently required to run in a nonpartisan election to retain that office, the provisions of subdivisions (h)(1), (h)(3), and (h)(4) shall not apply to that member after resignation from the registry in order to run for such office. The provisions of this subdivision shall cease to be effective on June 1, 1999.

(3) A member of the registry of election finance may not be appointed or hired by an official over whom the registry has jurisdiction for one (1) year subsequent to the removal, vacancy or termination of the term of office of such member.

(4) Notwithstanding the provisions of subsection (h) and subdivision (j)(1), or any other provision of this chapter, during that one-year period specified in subdivision (j)(1), a former member of the registry may support a candidate or the committee of a candidate for a federal election in any way permitted by law, including financial support.

(k) Any member of the registry of election finance who violates the oath of office for such position or participates in any of the activities prohibited by this part commits a Class A misdemeanor, and such violation or participation shall be a ground for removal from office.

#### **2-10-204. Executive director - Employees.**

(a) The registry shall appoint a full-time executive director who shall serve at the pleasure of the registry. The registry may appoint the state coordinator of elections as the executive director, and the registry may utilize existing staff and resources of the office of the state coordinator of elections. Other employees shall be employed on recommendation of the executive director with the approval of the registry. The registry may call on the office of the state coordinator of elections for such advice, documents or services as it may require.

(b) Employees of the registry shall not have civil service status, but such employees shall be subject to personnel policies applicable to state employees generally, such as leave, compensation, classification and travel requests.

#### **2-10-205. Jurisdiction to administer and enforce certain statutes.**

The registry has the jurisdiction to administer and enforce the provisions of the following statutes:

(1) The "Campaign Financial Disclosure Law," compiled in part 1 of this chapter;

(2) The "Lobbyist Registration and Disclosure Law," compiled in title 3, chapter 6;

(3) The "Conflict of Interest Disclosure Law," compiled in title 8, chapter 50, part 5; and

(4) The "Campaign Contribution Limits Law," compiled in part 3 of this chapter.

#### **2-10-206. Registry of election finance - Duties.**

The duties of the registry include the following:

1) Develop prescribed forms for statements that are required to be filed under the above laws with the objective of making the disclosure statements as simple and understandable as possible for both the person filing the disclosure statement and the average citizen of the state of Tennessee;



- (2) Develop a filing, coding and cross-indexing system;
  - (3) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the same;
  - (4) Review all filed statements to ensure compliance with the respective disclosure laws. Statements filed with the registry for more than one hundred eighty (180) days shall be deemed to be sufficient, absent a showing of fraud;
  - (5) Prepare and publish a manual for all candidates and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting and requirements as to reporting dates and the length of time that candidates and committees are required to keep any records pursuant to the provisions of this part;
  - (6) Provide an annual report to the governor and the general assembly concerning the administration and enforcement of the disclosure law;
  - (7) Investigate any alleged violation upon sworn complaint or upon its own motion. If the registry investigates the records of any selected candidate, it may also investigate the records of all other candidates running for the same position in the same district or other appropriate geographic area;
  - (8) Preserve all reports or statements for five (5) years from the date of filing; and
  - (9) Notify all candidates for state public office in a state election of the requirements for filing any required disclosure statement fourteen (14) days before any fixed deadline provided.
- (b)The registry shall notify each member of the general assembly by sending notice to the member's home address and the member's legislative office address in Nashville.

#### **2-10-207. Registry of election finance - Powers.**

The registry has the following powers:

- (1) Promulgate such rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as are necessary to implement the provisions of this chapter;
- (2) Hold hearings, subpoena witnesses, administer oaths, and compel production of books, correspondence, papers and other records, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;
- (3) Issue written advisory opinions to candidates concerning compliance with this chapter and the Conflict of Interest Disclosure Law, compiled in title 8, chapter 50, part. 5. A candidate may rely upon such opinion without threat of sanction with respect to the issue addressed by the opinion if the candidate conforms such candidate's conduct to the requirements of the advisory opinion;
- (4) In determining whether an actual violation has occurred, conduct a contested case hearing pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;
- (5) Issue an appropriate order following such a determination;
- (6) Assess a late filing fee of twenty-five dollars (\$25.00) per day up to a maximum total penalty of seven hundred fifty dollars (\$750);
- (7) Assess a civil penalty for any violation of the disclosure laws as provided by this part. Such civil penalties may be assessed for any violation of the Campaign Financial Disclosure Law, compiled in part 1 of this chapter, the Lobbyist Registration and Disclosure Law, compiled in title 3, chapter 6, the Conflict of Interest Disclosure Law, compiled in title 8, chapter 50, part 5 and the Campaign Contribution Limits Act, compiled in part 3 of this chapter;

provided, that the registry shall only have the power to assess a civil penalty after notice and opportunity for hearing; and

(8) Where the results of its investigation indicate a willful or fraudulent violation has occurred, the registry may refer the matter to the district attorney general of the district where the alleged violator is a resident for criminal prosecution.

#### **2-10-208. Applicability of part.**

(a) All political accounts or funds subject to Tennessee law on January 1, 1990, shall become subject to the provisions of this part.

(b) For the purposes of enforcement, this part shall be prospective only, and the registry shall limit its investigations to acts or omissions which occur after January 1, 1990.

#### **2-10-209. Enforcement - Chancery court petitions and orders.**

The registry has the authority to petition the chancery court through the attorney general and reporter for enforcement of any order it has issued. The court's order of enforcement has the same force and effect as a civil judgment.

#### **2-10-210. Authority to establish or levy penalty or sanction**

The registry of election finance shall not establish or levy any penalty or sanction for any action alleged to be a violation of the rules and regulations of the registry unless such action is also a violation of a statutory requirement.

#### **2-10-211. Electronic filing system.**

(a) The registry of election finance, notwithstanding any other provision of the law to the contrary, shall do all of the following:

- (1) Develop, with the advice, assistance and approval of the office of information resources, an Internet-based electronic filing process for use by all candidates for state public office and all political campaign committees that are required to file statements and reports with the registry of election finance;
  - (2) Develop, with the advice, assistance and approval of the office of information resources, a system that provides each candidate and campaign committee with secure access to the electronic filing system. The system shall provide safeguards against efforts to tamper or change the data in any way;
  - (3) Provide training to candidates and campaign committees on the use of the electronic filing system;
  - (4) Develop, with the advice, assistance and approval of the office of information resources, a system that will forward a copy of any candidate's report filed electronically with the registry of election finance to the appropriate local county election commission as required § 2-10-105(a); and
  - (5) Beginning with the 2004 regular August election, with the advice, assistance and approval of the office of information resources, provide to the public access to a list of campaign contributions made to candidates and a list of expenditures made by those candidates by posting such list on the Internet. Such lists shall not be subject to the provisions of § 2-10-111. In addition, the registry shall provide assistance to anyone seeking to access this information on the Internet. Campaign contribution lists shall not be made available on the Internet until the lists for each candidate running for the same office are available and such lists shall be made available on the Internet as simultaneously as is practicable.
- (b) The registry of election finance, once the development of the electronic filing system is completed and tested, shall provide public notice that the system is operational and available for filers to commence use.

- (c) The registry of election finance shall, and with the advice, assistance and approval of the office of information resources, implement of the electronic filing system for use in the 2004 regular August election and all subsequent state elections. Candidates for state public offices and campaign committees may commence electronic filing for any state election beginning in the year 2004, and after notice has been given pursuant to subsection (b) and may continue to file electronically all reports for any subsequent state elections.
- (d) All information entered by any candidate or campaign committee into the electronic filing system shall remain confidential until the information is filed with the registry of election finance.

### **PART 3**

#### **CAMPAIGN CONTRIBUTIONS LIMITS**

##### **2-10-301. Short title - Jurisdiction.**

- (a) This part shall be known and may be cited as the "Campaign Contribution Limits Act of 1995."
- (b) The registry of election finance has jurisdiction to administer and enforce the provisions of this part.

##### **2-10-302. Contribution limits.**

- (a) No person shall make contributions to any candidate with respect to any election which, in the aggregate, exceed:
  - (1) For an office elected by statewide election, two thousand five hundred dollars (\$2,500); or
  - (2) For any other state or local public office, one thousand dollars (\$1,000).
- (b) No multicandidate political campaign committee shall make contributions to any candidate with respect to any election which, in the aggregate, exceed:
  - (1) For an office elected by statewide election or the senate, seven thousand five hundred dollars (\$7,500); and
  - (2) For any other state or local public office, five thousand dollars (\$5,000).
- (c) With respect to contributions from multicandidate political campaign committees for each election:
  - (1) No candidate for an office elected by statewide election shall accept in the aggregate more than fifty percent (50%) of the candidate's total contributions from multicandidate political campaign committees; and
  - (2) No candidate for any other state or local public office shall accept in the aggregate more than seventy-five thousand dollars (\$75,000) from multicandidate political campaign committees.

In determining the aggregate limits established by this subsection, contributions made to a candidate by a committee controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly are not included.

##### **2-10-303. Indirect contributions - Political action committees.**

For purposes of the limitations contained in this part:

- (1) Contributions made to any political campaign committee authorized by a candidate to accept contributions on the candidate's behalf shall be considered to be contributions made to such candidate;
- (2) Contributions made by a political campaign committee authorized by a candidate to make expenditures on the candidate's behalf shall be considered contributions made by such candidate;

(3) All contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the registry of election finance and to the intended recipient;

(4) All contributions made by affiliated political campaign committees shall be considered to have been made by a single committee; and

(5) Expenditures made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, the candidate's political campaign committees, or their agents, shall be considered to be a contribution to such candidate. For purposes of this subsection, the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's political campaign committees, or their authorized agents shall be considered to be an expenditure.

#### **2-10-304. Loans.**

(a) The limitations contained in this part do not apply to any loan of money by a financial institution as defined in § 45-10-102(3) that:

(1) Is made in accordance with applicable law and in the ordinary course of business;

(2) Is made on a basis reasonably designed to assure repayment, evidenced by a written instrument, and subject to a payment due date or amortization schedule; and

(3) Bears the usual and customary interest rate of the lending institution.

(b) An endorsement or guaranty of a loan made pursuant to subsection (a) shall be considered a contribution in the amount of the endorsement or guaranty and shall be subject to the limitations contained in this part. Where the written instrument does not specify the portion of the loan for which the endorser or guarantor is liable, each endorser or guarantor shall be considered to have made a contribution in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

#### **2-10-305. Retention or transfer of funds.**

The limits contained in this part do not apply to:

(1) The retention of funds by a candidate pursuant to §2-10-114(a)(1);

(2) The transfer of funds by a candidate pursuant to § 2-10-114(a)(1) to a campaign fund of the same candidate for election to a different state or local public office; or

(3) The transfer of funds by a candidate for election to a federal office to a campaign fund of the same candidate for election to a state or local public office.

#### **2-10-306. Aggregate limits - Exemptions.**

(a) All contributions made by political campaign committees controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly shall be considered to have been made by a single committee. Such contributions shall not, in the aggregate, exceed:

(1) Two hundred fifty thousand dollars (\$250,000) per election to any candidate in a statewide election;

(2) Forty thousand dollars (\$40,000) per election to any candidate for the senate; and

(3) Twenty thousand dollars (\$20,000) per election to any candidate for any other state or local public office.

(b) For purposes of this section, "contributions" does not include:

(1) Payment of the costs of preparation, display or mailing or other distribution with respect to printed slate cards, sample ballots, or other printed listings of three (3) or more candidates who are opposed for election. This exemption does not apply to costs incurred with respect to the preparation and display of listings made on broadcasting stations or in newspapers, magazines and similar types of general public political advertising such as billboards;

(2) Payment of the costs of voter registration and get-out-the-vote activities conducted by party committees, unless the payments are made on behalf of a clearly identified candidate and the payment can be directly attributed to that candidate;

(3) Expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of party committees, unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate; or

(4) Expenditures for education campaign seminars and for training of campaign workers, unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.

#### **2-10-307. Violations - Return of unlawful contributions.**

(a) No candidate or political campaign committee shall accept any contribution or make any expenditure in violation of the provisions of this part. No officer or employee of a political campaign committee shall accept a contribution made for the benefit or use of a candidate, or make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

(b) In keeping with the federal law, a contribution made or accepted in excess of the limitations established by this part shall not be a violation of this part if the candidate or the political campaign committee returns or refunds the contribution to the person who made the contribution within sixty (60) days of the candidate's or committee's receipt of the contribution.

#### **2-10-308. Penalties.**

(a) The registry of election finance may impose a maximum civil penalty for a violation of this part of not more than ten thousand dollars (\$10,000) or one hundred fifteen percent (115%) of the amount of all contributions made or accepted in excess of the limitations established by this part, whichever is greater.

(b) Penalties imposed under this part shall be deposited into the state general fund.

(c) To request a waiver or reduction or in any way to contest a penalty imposed by the staff of the registry, a person shall file a petition with the registry. Such petition shall be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) If a civil penalty lawfully assessed against a candidate is not paid within thirty (30) days after the assessment becomes final, the candidate shall be ineligible to qualify for election to any state or local public office until such penalty is paid.

#### **2-10-309. Construction with federal law.**

In determining issues arising in regard to this part, the registry may rely on the precedents established under the federal law.

#### **2-10-310. Fund raising during general assembly session.**

(a)(1) Except as provided in subdivisions (a)(2) and (3), from the convening of the general assembly in organizational session through the earlier of the last day of regular session or June 1 in odd years, and from the convening of the general assembly in regular session to the earlier of May 15 or the conclusion of the annual session in even years, no member of the general assembly or a member's campaign committee shall conduct a fundraiser or solicit or accept contributions for the benefit of the caucus, any caucus member or member or candidate of the general assembly or governor.

(2) During such period, a member of the general assembly who is a candidate for a local public office shall be permitted to conduct fundraising events and solicit or accept contributions for such campaign for local public office only under the following conditions:

(A) Such fundraising events may be held only in the county in which such member is a candidate for local public office;

(B) Solicitations and acceptance of contributions for such purposes may only be made from individuals residing in such county;

(C) Such fundraising events shall not be held, nor contributions be solicited nor accepted, on state property;

(D) The member shall not be permitted to solicit or accept, directly or indirectly, any actual or in-kind contribution during such period from a lobbyist or employer of a lobbyist; and

(E) No other member of the general assembly or the campaign committee of such other member shall be permitted to solicit or accept contributions during such period for the member campaigning for local public office.

It shall be unlawful for any lobbyist or employer of a lobbyist to make any contribution to such member's campaign committee during such period for any purpose.

(3) All contributions raised as a result of fundraising or a fundraising event authorized and held in accordance with subdivision (a)(2) shall be reported on a form prescribed and provided by the registry of election finance for such purposes. Such form shall be filed with and attached to the applicable campaign finance disclosure report. The following disclosures shall be made on such form:

(A) The amount of contributions collected as a result of such fundraising event;

(B) The date and place such fundraising event was held;

(C) The dates on which such contributions were accepted; and

(D) All other information required by law to be reported on a campaign financial disclosure report.

(b) From the convening of the general assembly in organizational session through the earlier of the last day of regular session or June 1 in odd years, and from the convening of the general assembly in regular session to the earlier of May 15 or the conclusion of the annual session in even years, a political campaign committee controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either House of the general assembly, which makes contributions to a candidate for the general assembly or governor for election or to defray the expenses of such person's office shall not conduct a fundraiser, solicit or accept contributions for the benefit of the caucus, any caucus member or candidate for the general assembly or governor.

(c) Excess funds for election to a local public office are not eligible for transfer under § 2-10-114 to a campaign account for election to the general assembly or governor.

#### **PART 4**

#### **GUBERNATORIAL INAUGURATION FINANCE DISCLOSURE**

#### **2-10-401. Short title.**

This act shall be known and may be cited as the "Gubernatorial Inauguration Finance Disclosure Act."

#### **2-10-402. Definitions.**

As used in this part, unless the context otherwise requires:

- (1) "Contribution" means any advance, conveyance, deposit, distribution, transfer of funds, loan, loan guaranty, payment, gift, pledge or subscription, of money or like thing of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, made for the purpose of defraying any expenses of a governor or governor-elect's inauguration or the celebration of a governor or governor-elect's inauguration;
- (2) "Multicandidate political campaign committee" means a political campaign committee to support or oppose two (2) or more candidates for public office or two (2) or more measures; and
- (3) "Person" means an individual, limited liability company, partnership, limited liability partnership, committee, association, labor organization or any other organization or group of persons, but does not mean a corporation or the executive officers or other representatives of a corporation.

#### **2-10-403. Expense fund.**

Not later than thirty (30) days after being elected to the office of governor, the governor-elect shall establish a gubernatorial inauguration expense fund that shall be used to finance any event held for the purpose of celebrating the governor's inauguration. Such fund is subject to the contribution limits and reporting requirements provided in this part. The provisions of parts 1 and 3 of this chapter shall not apply to contributions made pursuant to this part.

#### **2-10-404. Contribution limits - Transfer of campaign funds.**

- (a) No person shall make contributions for the gubernatorial inauguration that, in the aggregate, exceed two thousand five hundred dollars (\$2,500).
- (b) No multicandidate political campaign committee shall make contributions for the gubernatorial inauguration that, in the aggregate, exceed seven thousand five hundred dollars (\$7,500).
- (c) No corporation or executive officers or other representatives of any corporation doing business within this state shall make contributions for the gubernatorial inauguration that, in the aggregate, exceed seven thousand five hundred dollars (\$7,500).
- (d) The governor-elect may transfer funds from the governor-elect's campaign fund to the inauguration fund.

#### **2-10-405. Financial disclosure statement.**

- (a) The governor-elect shall file with the registry of election finance a statement of all contributions received and all expenditures made by or on behalf of the gubernatorial inauguration fund.
- (b) A statement filed under this section shall consist of either:
  - (1) A statement that neither the contributions received nor the expenditures made during the period for which the statement is submitted exceeded one thousand dollars (\$1,000); or
  - (2) A statement setting forth:
    - (A) Under contributions, a list of all the contributions received, as follows:

(i) The statement shall list the full name and complete address of each person, multicandidate political campaign committee, or corporation contributing a total amount of more than five hundred dollars (\$500) during the period for which the statement is submitted, and the amount contributed by that person, multicandidate political campaign committee, or corporation. The statement shall include the date of the receipt of each contribution; and

(ii) The statement shall list as a single item the total amount of contributions of five hundred dollars (\$500) or less; and

(B) Under expenditures, a list of all expenditures made as follows:

(i) The statement shall list the full name and address of each person to whom a total amount of more than five hundred dollars (\$500) was paid during the period for which the statement is submitted, the total amount paid to that person, and the purpose thereof; and

(ii) The statement shall list the total amount of expenditures of five hundred dollars (\$500) or less each, by category, without showing the exact amount of or vouching for each such expenditure.

(c) The financial disclosure statement for contributions made up until thirty (30) days before any inauguration event shall be filed no later than ten (10) days before the governor's inauguration. The financial disclosure statement for all other contributions shall be filed no later than thirty (30) days after the governor's inauguration.

#### **2-10-406. Unused funds.**

(a) The governor may hold over funds from the governor's first inauguration to be used in a second inauguration if the governor is re-elected. If the governor is either in a second term, chooses not to run for re-election or is not re-elected, the governor has ninety (90) days to donate any funds remaining in the gubernatorial inauguration fund to a 501(c)(3) nonprofit organization. The governor may request from the registry of election finance an extension of an additional sixty (60) days to donate such remaining funds.

(b) Once the funds have been donated as provided in subsection (a), a financial disclosure statement shall be filed with the registry of election finance disclosing who received such funds and the amount of such donation.